**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**
**SECOND APPEAL NO.875 OF 2006**

Arjun Baburao Tajane & Anr. ...Appellants

vs.

Haushabai Bhaskar Gangurde and ors. ...Respondents

Mr.M.S.Karnik for the Appellants

**CORAM: A.S.OKA,J.**
**DATE : JULY 6, 2007.**

**P.C.:**

1. Heard Advocate for the Appellants. He submitted that the courts below have committed an error in passing the decree for partition in favour of the first Respondent. He submitted that the first Respondent (original Plaintiff) had relinquished her share in the suit property by executing an affidavit. He submitted that the certified copies of the Affidavit as well as application submitted by the first Respondent-original Plaintiff to the revenue Officer were produced on record. He submitted that the Appellate Court has committed an error by holding that the document of relinquishment ought to have been registered. He submitted that the Appellants were bonafide purchasers through the Defendant Nos.2 to 5.

2. I have considered he submissions. The documents which are produced before the trial court are certified copies of the

alleged Affidavit of the first Respondent and alleged application made by the first Respondent to the revenue authority on the basis of the said Affidavit. Perusal of the cross examination of the first Respondent shows that she has denied the execution of the Affidavit. No attempts were made to get the original documents produced on record.

3. Considering all these aspects, the courts below have not accepted the case made out by the Appellants as regards relinquishment by the first Respondent. Once the case of the relinquishment is disbelieved, it is obvious that the Appellants could not have purchased the share of the first Respondent. The Appellate Court has modified the decree of the trial court by holding that the first Respondent has only 1/6th share in the suit property. It is obvious that at the time of effecting partition, the Appellants can always request the concerned authorities for adjustment of equities as the Appellants are claiming to be in possession of some of the suit properties. No substantial question of law arises.

4. Subject to observations made above, Second Appeal is dismissed with no order as to costs.

**JUDGE**